IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2006

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

WRIT PETITION NO.38931 OF 2006

& MP.NO.1 OF 2006

K.S.P.Gunasekaran ..Petitioner

Vs

1.The District Collector,
Chengalpattu District at
Kancheepuram.

2.The Assistant Director, Mines
& Minerals, Geology & Mining
Kancheepuram District. ..Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to allow the lease period as the fullest period upto 18.8.2007 as per the orders passed in WP.No.5118 of 2000 dated 16.4.2001 in survey No.127/1 quarry No.2, Edarkundram Village, Chengalpattu Taluk.

For Petitioner : Mr.V.R.Karthikeyan

For Respondents : Mr.R.Thirugnanam, SGP

O R D E R

The petitioner seeks for the issuance of a Writ of Mandamus as stated above on the ground that after the lease granted in favour of the petitioner, from December 2001 to April 2002, in view of certain legal proceedings initiated by the local people, the petitioner was not able to quarry. Further, for a period of seven months from 21.7.2004 onwards, the petitioner was not able to quarry in view of the direction issued by the Director of Mines Safety. Hence, for the total period of 11 months, the petitioner's lease has to be extended. With the above averments, the writ petition has been filed.

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2. I have heard the learned counsel on either side and perused the materials on record.

3. This Court need not dilate the matter in detail about the grant of lease and the period of lease, as the issue involved is as to whether the petitioner is entitled to get extension of the period for which he stated to have not quarried.

4. In respect of the first spell of four months i.e from December 2001 to April 2002, the reasoning stated for not carrying on the quarrying operation is due to the disturbance given by the villagers by filing a writ petition and a writ appeal. It is not the respondents, who were responsible for filing the writ petition and the writ appeal. If at all the petitioner is the person, who is to defend the same and get it vacated. It is well settled that the petitioner has to put his own affairs in a proper manner, if any difficulty arises in carrying on the quarrying operation because of any third parties and not at the instance of the Government, the respondents are not legally liable to extend the period. This proposition is taken and followed by this Court in a catena of cases. Hence, the first spell of four months from December 2001 to April 2002 cannot be granted, as the petitioner is not legally entitled to the same.

5. In respect of the second spell of seven months, equally, the respondents are not responsible for the same. While granting lease in favour of the petitioner and while executing the lease deed also, all the safety measures the petitioner has to take have been incorporated. Clause 15 of Appendix 1 (originally it was Appendix 2) to the Tamilnadu Minor Mineral Concession Rules provides that the lessee shall abide by the conditions laid down in the Payment of Wages Act, 1936 (Central Act IV of 1936); the Mines Act, 1952 (Central Act XXXV of 1952) and the Indian Explosives Act, 1884 (Central Act IV of 1884). The Mines Act, 1952 includes the Metalliferous Mines Regulations, 1961, which have not been followed by the petitioner by not providing benches, while conducting quarrying operation, such non-providing of benches is stated to have caused death of a person and injuries to other employees. In order to set right the way of quarrying by providing benches and also to follow the safety measures, the Director of Mines Safety issued the proceedings dated 21.7.2004 due to the infraction or non-following of the provisions of the Mines Act, 1952 by the petitioner himself. This is also not be attributable to the respondents. For the foregoing reasons, this Court is not able to concur with the arguments advanced by the learned counsel for the petitioner for extension of the lease period for the second spell also.

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6. Hence, the writ petition is dismissed. No costs. Consequently, the above MP is also dismissed.

RS

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector, Chengalpattu District at Kancheepuram.

2.The Assistant Director, Mines & Minerals, Geology & Mining
Kancheepuram District.

+ 1 cc to Government Pleader SR No. 52849

+ 1 cc to Mr. V. R. Karthikeyan, Advocate SR No. 52373

GGK(CO)
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AND MP.NO.1 OF 2006

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